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AKA/JAR: USAO 2022R00022

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

STEPHEN KENNEDY and
DONNELL KELLY,

Defendants

CRIMINAL NO. 23-cr-00061 PJM

(Conspiracy to Commit Arson,
18 U.S.C. §844(n); Arson Affecting
Interstate Commerce, 18 U.S.C.
§844(i); Hobbs Act Robbery, 18 U.S.C.
§1951; Use of an Destructive Device in
Furtherance of a Crime of Violence, 18 U.S.C.
§924(c); Felon in Possession
of an Firearm, 18 U.S.C. 922(g);
Carrying Explosive During
Commission of Felony, 18 U.S.C.
§844(h)(2); Aiding and Abetting,
18 U.S.C. §2; Forfeiture, 18 U.S.C.
§§ 924(d)(1), 981(a)(1)(C); 21 U.S.C.
§ 853)

INDICTMENT

COUNT ONE

(Conspiracy to Commit Arson)

The Grand Jury for the District of Maryland charges that:

At all times material to the Indictment:

Introduction

1. STEPHEN KENNEDY (“KENNEDY”) and DONNELL KELLY (“KELLY”)

were residents of Maryland.

Business Victims

2. 7-Eleven was a multinational chain of convenience stores headquartered in

Dallas, Texas, that had locations throughout Maryland and other states and engaged in interstate

and foreign commerce. 7-Eleven locations in the United States are typically open 24 hours each day.

3. FCTI, a Los Angeles, California-based corporation, was an automatic teller machine (“ATM”) network operator that maintained an exclusive contract with 7-Eleven to operate ATMs within 7-Eleven locations in the United States.

Individual Victims

4. The individual victims of criminal activities described in this Indictment were employees and owners of 7-Eleven locations, including:

- a. Victim 1, a clerk at the Three Notch Road location in Mechanicsville, Maryland;
- b. Victim 2, the owner of the 6404 Auth Road location in Suitland, Maryland;
- c. Victim 3, the owner of the 3411 Dallas Drive, Temple Hills, Maryland;
- d. Victim 4, the owner of the 28240 Three Notch Road location Mechanicsville, Maryland;
- e. Victim 5, the owner of the 1428 Richie Road location in Capitol Heights, Maryland; and
- f. Victim 6, the owner of the 2 South Jordan Street location in Alexandria, Virginia.

The Conspiracy

5. Beginning no later than January 2021 and continuing through in or around January 2022, in the District of Maryland, and elsewhere, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

and others known and unknown to the Grand Jury, conspired and agreed together to maliciously damage and destroy, and attempt to damage and destroy, by means of fire and an explosive, any building, vehicle, and other real and personal property used in interstate or foreign commerce and in any activity affecting interstate or foreign commerce, in violation of 18 U.S.C. § 844(i).

Object of the Conspiracy

6. It was the object of the arson conspiracy to obtain cash contained in FCTI ATMs located inside 7-Eleven locations.

Manner and Means of the Conspiracy

It was part of the conspiracy that:

7. **KENNEDY, KELLY**, and others, identified 7-Eleven locations in the Maryland, District of Columbia, and Virginia area to target for firebombing, a bombing technique designed to damage a target through the use of fire, in order to temporarily force the locations' closure.

8. **KENNEDY, KELLY**, and others, obtained components and manufactured explosive devices with which to set fire to the identified 7-Eleven locations.

9. **KENNEDY, KELLY**, and others, travelled to the identified locations while open for business and deployed explosive devices to set fire to the buildings, and, on at least one occasion, demanded the contents of the cash register.

10. **KENNEDY, KELLY**, and others, deliberately burned the 7-Eleven locations in order to force their closure and shut off power to security cameras, which would enable them to

return to the unguarded locations so they could then burglarize the ATMs unhindered, which resulted in losses to FCTI of at least \$249,100.

11. **KENNEDY** and others obtained various tools from local businesses to conduct these ATM burglaries, including bolt cutters and power concrete saws.

12. **KENNEDY, KELLY**, and others, took steps to destroy or obscure evidence of their crimes, including by burning vehicles used in the arson attacks and/or burglaries or making false police reports regarding stolen plates.

18 U.S.C. § 844(n)

COUNT TWO
(Arson Affecting Interstate Commerce)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 4 and 6 through 12 of Count One are hereby incorporated by reference as though fully set forth herein.
2. On or about January 6, 2021, in the District of Maryland, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

did maliciously damage and destroy, and attempt to damage and destroy, by means of fire or explosive, the 7-Eleven located at 6404 Auth Road, Suitland, Maryland 20746, which was used in interstate and foreign commerce.

18 U.S.C. § 844(i)

18 U.S.C. § 2

COUNT THREE
(Felon in Possession of a Destructive Device)

The Grand Jury for the District of Maryland further charges that:

On or about January 6, 2021, in the District of Maryland, the defendant,

DONNELL KELLY,

knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed a firearm as that term is defined in Title 26, United States Code, Section 5845(a)—that is, a destructive improvised incendiary device commonly referred to as a “Molotov Cocktail”—and the firearm was in and affecting interstate commerce.

18 U.S.C. § 922(g)(1)

COUNT FOUR
(Arson Affecting Interstate Commerce)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 4 and 6 through 12 of Count One are hereby incorporated by reference as though fully set forth herein.
2. On or about January 16, 2021, in the District of Maryland, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

did maliciously damage and destroy, and attempt to damage and destroy, by means of fire or explosive, the 7-Eleven located at 3411 Dallas Drive, Temple Hills, Maryland 20748, which was used in interstate and foreign commerce.

18 U.S.C. § 844(i)

18 U.S.C. § 2

COUNT FIVE
(Arson Affecting Interstate Commerce)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 4 and 6 through 12 of Count One are hereby incorporated by reference as though fully set forth herein.

2. On or about May 29, 2021, in the District of Maryland, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

did maliciously damage and destroy, and attempt to damage and destroy, by means of fire or explosive, the 7-Eleven located at 6404 Auth Road, Suitland, Maryland 20646, which was used in interstate and foreign commerce.

18 U.S.C. § 844(i)

18 U.S.C. § 2

COUNT SIX
(Arson Affecting Interstate Commerce)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 4 and 6 through 12 of Count One are hereby incorporated by reference as though fully set forth herein.
2. On or about July 25, 2021, in the District of Maryland, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

did maliciously damage and destroy, and attempt to damage and destroy, by means of fire or explosive, the 7-Eleven located at 28240 Three Notch Road, Mechanicsville, Maryland 20659, which was used in interstate and foreign commerce.

18 U.S.C. § 844(i)

18 U.S.C. § 2

COUNT SEVEN
(Interference with Commerce by Robbery)

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 4 and 6 through 12 of Count One are hereby incorporated by reference as though fully set forth herein.
2. On or about July 25, 2021, in the District of Maryland, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

did unlawfully obstruct, delay and affect, and attempt to obstruct, delay and affect, commerce by robbery, as those terms are defined in 18 U.S.C. § 1951, and the movement of articles and commodities in such commerce, in that the defendants did unlawfully take and attempt to take property—that is business proceeds including United States currency—from the person and in the presence of Victim 1, by means of actual and threatened force, violence, and fear of injury, immediate and future, to Victim 1.

18 U.S.C. § 1951

18 U.S.C. § 2

COUNT EIGHT

**(Use and Carry of a Firearm During and in Relation to a Crime of Violence,
and Possession of a Firearm in Furtherance of a Crime of Violence)**

The Grand Jury for the District of Maryland further charges that:

1. Paragraphs 1 through 4 and 6 through 12 of Count One are hereby incorporated by reference as though fully set forth herein.

2. On or about July 25, 2021, in the District of Maryland, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

did knowingly (i) use and carry a destructive device, with constitutes a firearm, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is interference with commerce by robbery, in violation of 18 U.S.C. § 1951, as charged in Count Seven of this Indictment and incorporated here; and (ii) possess a destructive device, which constitutes a firearm, in furtherance of a crime of violence for which he may be prosecuted in a court of the United States, that is interference with commerce by robbery, in violation of 18 U.S.C. § 1951, as charged in Count Seven of this Indictment and incorporated here.

18 U.S.C. § 924(c)(1)(a), (c)(1)(B)(ii)
18 U.S.C. § 2

COUNT NINE
(Carrying Explosive During Commission of Felony)

The Grand Jury for the District of Maryland further charges that:

On or about July 25, 2021, in the District of Maryland, the defendant,

STEPHEN KENNEDY,

carried an explosive during the commission of any felony which may be prosecuted in a court of the United States, that is, interference with commerce by robbery, in violation of 18 U.S.C. § 1951, as charged in Count Seven of this Indictment and incorporated here.

18 U.S.C. § 844(h)(2)

COUNT TEN
(Felon in Possession of a Firearm)

The Grand Jury for the District of Maryland further charges that:

On or about January 6, 2022, in the District of Maryland, the defendant,

STEPHEN KENNEDY,

knowing he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed firearms and ammunition—that is, (1) a Glock 22 Gen 4 handgun with an obliterated serial number and 36 rounds of .40 caliber ammunition loaded in two magazines (one high capacity) and (2) a Century Arms Draco semi-automatic pistol with an obliterated serial number and 100 rounds of 7.62x39mm ammunition loaded in two high-capacity magazines—and the firearms and ammunition were in and affecting interstate commerce.

18 U.S.C. § 922(g)(1)

FORFEITURE ALLEGATION

1. Pursuant to Fed. R. Crim. P. 32.2, notice is hereby given to the defendants that the United States will seek forfeiture as a part of any sentence in accordance with 18 U.S.C. §§ 924(d), 981(a)(1)(C), 982(a)(2)(B), and 28 U.S.C. § 2461(c), in the event of the defendants' conviction under Counts One through Ten of this Indictment.

Firearms and Ammunition Forfeiture

2. Upon conviction of the offenses set forth in Count Three, Count Eight, Count Seven, or Count Ten of this Indictment, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

shall forfeit to the United States, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), any firearms and ammunition involved in the offenses, including, but not limited to: (1) Glock 22 Gen 4 handgun with an obliterated serial number and 36 rounds of .40 caliber ammunition loaded in two magazines (one high capacity); and (2) a Century Arms Draco semi-automatic pistol with an obliterated serial number and approximately 100 rounds of 7.62x39mm ammunition loaded in two high-capacity magazines.

Robbery Forfeiture

3. Upon conviction of any of the offense set forth in Count Seven of this Indictment, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY**

shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to such offense.

Arson Forfeiture

4. Upon conviction of any of the offense set forth in Count One, Count Two, Count Four, Count Five, Count Six, and Count Nine of this Indictment, the defendants,

**STEPHEN KENNEDY and
DONNELL KELLY,**

shall forfeit to the United States: (a) pursuant to 18 U.S.C. § 982(a)(2)(B), any property constituting or derived from, proceeds obtained directly or indirectly, as a result of such offenses; and (b) pursuant to 18 U.S.C. § 844(c), any explosive materials involved or used or intended to be used in the offenses.

Substitute Assets

5. If, as a result of any act or omission of the defendant, any of the property described above as being subject to forfeiture:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be subdivided without difficulty;

pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), the United States shall

be entitled to forfeiture of substitute property of the defendant up to the value of the forfeitable property described above.

18 U.S.C. § 924(d)
18 U.S.C. § 981(a)(1)(C)
18 U.S.C. § 982(a)(2)(B)
21 U.S.C. § 853(p)
28 U.S.C. § 2461(c)

Erek L. Barron /AM
Erek L. Barron
United States Attorney

A TRUE BILL:

Date: February 22, 2023

SIGNATURE REDACTED

Foreperson